

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3814

To amend title II of the Social Security Act to institute certain reforms relating to the provision of disability insurance benefits based on substance abuse and relating to representative payees, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 1994

Mr. GEKAS (for himself, Mr. THOMAS of California, and Mr. ROTH) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend title II of the Social Security Act to institute certain reforms relating to the provision of disability insurance benefits based on substance abuse and relating to representative payees, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Disability Insurance  
5       Reform Act of 1994”.

1 **SEC. 2. REFORM OF MONTHLY INSURANCE BENEFITS**  
2 **BASED ON DISABILITY INVOLVING SUB-**  
3 **STANCE ABUSE.**

4 (a) IN GENERAL.—Section 225 of the Social Security  
5 Act (42 U.S.C. 425) is amended—

6 (1) by striking the heading and inserting the  
7 following:

8 “ADDITIONAL RULES RELATING TO BENEFITS BASED ON  
9 DISABILITY

10 “Suspension of Benefits”;

11 (2) by inserting before subsection (b) the fol-  
12 lowing new heading:

13 “Continued Payments During Rehabilitation Program”;  
14 and

15 (3) by adding at the end the following new sub-  
16 section:

17 “Nonpayment of Benefits by Reason of Substance Abuse

18 “(c)(1)(A) Notwithstanding any other provision of  
19 this title, no benefit based on disability under this title  
20 shall be paid to any individual for any month during any  
21 period of consecutive months beginning with a month in  
22 which such individual is medically determined to be a drug  
23 addict or an alcoholic and ending with a month as of the  
24 end of which—

25 “(i) the person, through an outpatient rehabili-  
26 tation program, has subsequently undergone treat-

1       ment appropriate for such condition for 3 months at  
2       an institution or facility approved by the Secretary  
3       for purposes of this subsection, and has complied  
4       with the terms, conditions, and requirements of such  
5       treatment and with the requirements imposed under  
6       paragraph (4); and

7               “(ii) the Secretary determines that—

8                       “(I) the person has made progress towards  
9                       recovery, or has recovered; or

10                      “(II) if the person has not made progress  
11                      towards recovery, the person meets such re-  
12                      quirements established in regulations as the  
13                      Secretary deems appropriate to effectuate the  
14                      purposes of this title.

15       “(B) In any case in which an individual’s disability  
16 is based in whole or in part on a medical determination  
17 that the individual is a drug addict or alcoholic, such indi-  
18 vidual’s benefits based on disability under this title which  
19 are otherwise payable for any month preceding the month  
20 in which application for such benefits is made (pursuant  
21 to section 202(j)(1) or the last sentence of section 223(b))  
22 shall be payable only pursuant to a certification of such  
23 payment to a representative payee of such individual pur-  
24 suant to section 205(j).

1       “(2) If, after the 3-month treatment period referred  
2 to in paragraph (1)(A), the Secretary determines that the  
3 person has not recovered from the condition treated, then,  
4 as a condition of receiving benefits based on disability  
5 under this title for any month after such period, the per-  
6 son must continue to comply with the terms, conditions,  
7 and requirements of such treatment and with the require-  
8 ments imposed under paragraph (4), until the month in  
9 which the Secretary determines that the person has recov-  
10 ered from such condition.

11       “(3)(A) Notwithstanding any other provision of this  
12 title, in the case of a person who fails to continue treat-  
13 ment as required by paragraph (2), no benefit based on  
14 disability shall be paid under this title for any month end-  
15 ing after such failure and before the person has completed  
16 2 weeks of such treatment.

17       “(B) In the case of a person to whom a benefit based  
18 on disability under this title becomes payable for any  
19 month after a month for which such benefit was not pay-  
20 able under subparagraph (A), and who thereafter fails to  
21 continue treatment as required by paragraph (2), no bene-  
22 fit based on disability shall be paid under this title for  
23 any month ending after such failure and before the person  
24 has completed 2 months of such treatment.

1       “(C) In the case of a person to whom a benefit based  
2 on disability under this title becomes payable for any  
3 month after a month for which such benefit was not pay-  
4 able under subparagraph (B), and who thereafter fails to  
5 continue treatment as required by paragraph (2), no bene-  
6 fit based on disability shall be paid under this title for  
7 any month ending after such failure.

8       “(4) For purposes of this subsection, the term ‘bene-  
9 fit based on disability’ of an individual means a disability  
10 insurance benefit of such individual under section 223 or  
11 a child’s, widow’s, or widower’s insurance benefit of such  
12 individual under section 202 based on the disability of  
13 such individual.

14       “(5) Monthly insurance benefits under this title  
15 which would be payable to any individual (other than the  
16 disabled individual to whom benefits are not payable by  
17 reason of this subsection) on the basis of the wages and  
18 self-employment income of such a disabled individual but  
19 for the provisions of paragraph (1), shall be payable as  
20 though such disabled individual were receiving such bene-  
21 fits which are not payable under this subsection.

22       “(6) The Secretary shall provide for the monitoring  
23 and testing of all individuals who are receiving benefits  
24 under this title and who as a condition of such benefits  
25 are required to be undergoing treatment and complying

1 with the terms, conditions, and requirements thereof as  
2 described in the preceding provisions of this subsection,  
3 in order to assure such compliance and to determine the  
4 extent to which the imposition of such requirements is con-  
5 tributing to the achievement of the purposes of this title.  
6 The Secretary may retain jurisdiction in the case of a  
7 hearing before the Secretary under this title to the extent  
8 the Secretary determines necessary to carry out the pre-  
9 ceding sentence. The Secretary shall annually submit to  
10 the Congress a full and complete report on the Secretary's  
11 activities under this paragraph.

12 “(7) The Secretary, in consultation with drug and al-  
13 cohol treatment professionals, shall develop standards for  
14 drug and alcohol treatment programs, and in consultation  
15 with States, shall develop guidelines to be used to review  
16 and evaluate the progress of participants in such pro-  
17 grams.”.

18 (b) PRESERVATION OF MEDICARE BENEFITS.—Sec-  
19 tion 226 of such title (42 U.S.C. 426) is amended by add-  
20 ing at the end the following:

21 “(i) For purposes of this section, each person to  
22 whom a benefit for any month is not payable by reason  
23 of section 225(c) shall be treated as entitled to such bene-  
24 fit for such month if such person would be entitled to such  
25 benefit for such month in the absence of such section.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to benefits payable for months be-  
3 ginning 90 or more days after the date of the enactment  
4 of this Act.

5 **SEC. 3. RESTRICTION OF FUTURE REPRESENTATIVE PAY-**  
6 **EES TO GOVERNMENT AGENCIES, STATE-**  
7 **LICENCED OR CERTIFIED FACILITIES, OR**  
8 **STATE-BONDED OR LICENSED COMMUNITY-**  
9 **BASED NONPROFIT SOCIAL SERVICE AGEN-**  
10 **CIES.**

11 (a) RESTRICTION TO QUALIFIED ORGANIZATIONS.—  
12 Section 205(j) of the Social Security Act (42 U.S.C.  
13 405(j)) is amended—

14 (1) in paragraph (1), by striking “another indi-  
15 vidual, or an organization,” and inserting “a quali-  
16 fied organization”;

17 (2) in paragraph (2)(A)(i), by striking “the per-  
18 son” and inserting “the qualified organization”, and  
19 by striking “such person” and inserting “representa-  
20 tives of such qualified organization”;

21 (3) in paragraph (2)(B)(i), by striking “person”  
22 each place it appears in subclause (I) and inserting  
23 “qualified organization”, by striking “person’s social  
24 security account number (or employer identification  
25 number)” in subclause (II) and inserting “qualified

1 organization's employer identification number'', by  
2 striking "such person" in subclause (III) and insert-  
3 ing "such qualified organization'', and by striking  
4 "such person" each place it appears in subclause  
5 (IV) and inserting "such qualified organization";  
6 and

7 (4) by striking paragraph (2)(B)(ii), by redesign-  
8 ating paragraph (2)(B)(i) (as amended by para-  
9 graph (3)) as paragraph (2)(B), and by redesignat-  
10 ing subclauses (I), (II), (III), and (IV) of paragraph  
11 (2)(B) (as redesignated) as clauses (i), (ii), (iii), and  
12 (iv), respectively.

13 (b) QUALIFIED ORGANIZATION DEFINED.—

14 (1) IN GENERAL.—Section 205(j)(2)(C)(i) of  
15 such Act (42 U.S.C. 405(j)(2)(C)(i)) is amended by  
16 striking "Benefits of an individual may not be cer-  
17 tified for payment to any other person pursuant to  
18 this subsection if—" and inserting "For purposes of  
19 this subsection, the term 'qualified organization'  
20 means an agency or instrumentality of a State or a  
21 political subdivision of a State, a nonprofit facility  
22 that is licensed or certified as a care facility under  
23 the law of a State or a political subdivision of a  
24 State, and, in connection with services provided as  
25 a representative payee under this subsection in any

1 State, a community-based nonprofit social service  
2 agency which is bonded or licensed in such State.  
3 Except as otherwise provided in this subsection, such  
4 term does not include any person if—”.

5 (2) CONFORMING AMENDMENTS.—Section  
6 205(j)(2)(C) of such Act is further amended—

7 (A) by striking “subparagraph (B)(i)(III)”  
8 in clause (i)(I) and inserting “subparagraph  
9 (B)(iii)”, and by striking “subparagraph  
10 (B)(i)(IV)” in clause (i)(II) and inserting “sub-  
11 paragraph (B)(iv)”;

12 (B) in clause (iii), by striking subclauses  
13 (I) and (IV), by redesignating subclauses (II),  
14 (III), and (V) as subclauses (I), (II), and (III),  
15 respectively, and by striking “an individual” in  
16 subclause (III) (as redesignated) and inserting  
17 “a person”; and

18 (C) in clause (iv), by striking “individual”  
19 each place it appears and inserting “person”.

20 (c) AUTHORIZATION FOR FEES.—Section 205(j)(4)  
21 of such Act (42 U.S.C. 405(j)(4)) is amended—

22 (1) by striking subparagraph (A) and inserting  
23 the following:

24 “(4)(A) A qualified organization may collect from an  
25 individual a monthly fee for expenses (including overhead)

1 incurred by such organization in providing services per-  
2 formed as such individual's representative payee pursuant  
3 to this subsection if such fee does not exceed 10 percent  
4 of the monthly benefit involved. Any agreement providing  
5 for a fee in excess of the amount permitted under this  
6 subparagraph shall be void and shall be treated as misuse  
7 by such organization of such individual's benefits.”;

8 (2) by striking subparagraph (B);

9 (3) by redesignating subparagraph (C) as sub-  
10 paragraph (B) and, in subparagraph (B) (as so re-  
11 designated), by striking “qualified organization” and  
12 inserting “person”; and

13 (4) by striking subparagraph (D).

14 (d) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply with respect to certifications of  
16 payments to representative payees made on or after the  
17 date of the enactment of this Act. Section 205(j) of the  
18 Social Security Act (42 U.S.C. 405(j)) as in effect imme-  
19 diately before the date of the enactment of this Act shall  
20 continue to apply, in the case of any person who is then  
21 a representative payee under such section with respect to  
22 benefits for which certification of payment to such person  
23 under such section is then in effect, until such certification  
24 ceases to be effective under such section as then in effect.

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